

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT
Thurgood Marshall U.S. Courthouse 40 Foley Square, New York, NY 10007 Telephone: 212-857-8500

MOTION INFORMATION STATEMENT

Docket Number(s): 14-3491cv

Caption [use short title]

Motion for: Extension of Time to File Brief

Otis-Wisher v. Fletcher Allen Health Care

Set forth below precise, complete statement of relief sought:

For the Court to extend time for the Plaintiff-Appellant to file her brief until 12/15/14

and for Defendants-Appellees' brief deadline to be set for 2/23/15.

MOVING PARTY: Koleen Otis-Wisher

☒ Plaintiff

☐ Defendant

☒ Appellant/Petitioner

☐ Appellee/Respondent

OPPOSING PARTY: Medtronic, Inc., and Medtronic Sofamor Danek USA, Inc.

MOVING ATTORNEY: Carey C. Rose, Esq.

[name of attorney, with firm, address, phone number and e-mail]

OPPOSING ATTORNEY: Andrew E. Tauber, Esq.

Affolter Gannon & Rose, 15 Brickyard Road, Essex Junction, VT 05452;

Mayer Brown, LLP, 199 K Street, NW, Washington, DC, 20006-1101;

(802) 878-2797, Ext 246; crose@vermontlawyers.net

(202) 263-3324; ataubert@mayerbrown.com

Court-Judge/Agency appealed from: United States District Court for the District of Vermont, Honorable J. Garvan Murtha

Please check appropriate boxes:

Has movant notified opposing counsel (required by Local Rule 27.1):



Yes

☐ No

(explain): _____

Opposing counsel's position on motion:



Unopposed

☐ Opposed

☐ Don't Know

Does opposing counsel intend to file a response:



Yes

☒ No

☐ Don't Know

**FOR EMERGENCY MOTIONS, MOTIONS FOR STAYS AND
INJUNCTIONS PENDING APPEAL:**

Has request for relief been made below?



Has this relief been previously sought in this Court?

Requested return date and explanation of emergency: _____

Is oral argument on motion requested?



(requests for oral argument will not necessarily be granted)

Has argument date of appeal been set?



If yes, enter date: _____

Signature of Moving Attorney:

/s/ Carey C. Rose, Esq.

Date: 11/10/2014

Service by: ☒ CM/ECF

☐ Other [Attach proof of service]

IN THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Koleen Otis-Wisher,)	
)	
Plaintiff - Appellant,)	Docket #: 14-3491cv
)	
v.)	
)	
Medtronic, Inc., Medtronic Sofamor)	
Danek USA, Inc.,)	
)	
Defendants - Appellees,)	
)	
Fletcher Allen Health Care, Inc.,)	
AKA Fletcher Allen Health Care,)	
)	
Defendant.)	

**UNOPPOSED MOTION OF APPELLANT KOLEEN OTIS-WISHER TO
EXTEND TIME TO FILE BRIEF AND TO SET REVISED DEADLINE
FOR APPELLEES TO FILE THEIR BRIEF**

Plaintiff / Appellant Koleen Otis-Wisher, through counsel Affolter Gannon & Rose, 15 Brickyard Road, Essex Junction, Vermont moves in accordance with F.R.A.P. 26(b) to extend the time to file the Appellant's Brief. In support of her motion, the Appellant relies on the following memorandum of law.

MEMORANDUM OF LAW

According to F.R.A.P. 26(b) the Court may extend the time prescribed to perform any act for good cause shown. Appellant seeks an extension of time to

file her brief until December 15, 2014. Andrew E. Tauber, Esq., counsel for Appellees Medtronic, Inc. and Medtronic Sofamor Danek USA, Inc., has authorized us to state that Appellees consent to the requested extension, provided that Appellees receive a reciprocal extension of time to file their brief on February 23, 2015 (which is ten weeks from the date the Appellant's brief would be due).

The Appellant seeks the additional time for multiple reasons. Although this matter was assigned to the Expedited Appeals Calendar, the transcript on appeal was not complete until on or about October 20, 2014. Further, Appellant's counsel is in the process of responding to multiple motions for summary judgment and currently has cases on appeal at the state level, which also require significant time. In addition, given the infrequency with which the Appellant's counsel handles appeals at the federal court appellate level (it has been several years) counsel seeks the additional time in order to fully and correctly prepare the brief. As stated above, counsel for the Appellees has consented to the Appellant's request for additional time provided a reciprocal extension of time is provided, until February 23, 2015, ten weeks from the date the Appellant's brief becomes due.

WHEREFORE the Appellant requests that the Court grant her an extension of time to file her brief until December 15, 2014 and set the date for the Appellees to file their brief for February 23, 2015. The above revised deadlines are agreed upon by all parties to this appeal.

DATED at Essex Junction, Vermont this 10th day of November, 2014.

AFFOLTER GANNON & ROSE
Counsel for the Appellant

By: /s/ Carey C. Rose, Esq. _____
Carey C. Rose, Esq.
Affolter Gannon & Rose
15 Brickyard Road
Essex Junction, Vermont 05452
(802) 878-2797, Ext. 246
crose@vermontlawyers.net

cc: Andrew E. Tauber, Esq.
Scott Noveck, Esq.
Potter Stewart, Jr., Esq.